

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 292

(Senator Norman, *et al.*)

Judicial Proceedings

Health and Government Operations

Estates - Administration Exemption - Transfer of Motor Vehicle and Boat Titles

This bill authorizes a decedent's property consisting of up to two motor vehicles, or a boat or vessel with an appraised value of up to \$5,000, to be transferred to a surviving spouse without the requirement to administer the estate, under specified circumstances. Among other things, the surviving spouse must be the decedent's only heir or legatee.

Fiscal Summary

State Effect: The bill's provisions are not likely to affect State finances, as discussed below.

Local Effect: Potential significant decrease in revenues to local register of wills offices due to the bill's exemption from probate fees for specified estates that consist only of specified vehicles or vessels. No effect on expenditures. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary:

Vehicles

The bill authorizes the Motor Vehicle Administration (MVA) to transfer title to a motor vehicle owned by a decedent to the surviving spouse if (1) the only property owned by the decedent is not more than two motor vehicles; (2) the surviving spouse is the decedent's

only heir or legatee; (3) the surviving spouse certifies to MVA that all debts and taxes owed by the decedent have been paid; and (4) MVA receives a copy of the decedent's death certificate and suitable proof of the existence of the marriage.

Boats or Vessels with an Appraised Value of \$5,000 or Less

The agency that issued the certificate of title for a boat or vessel may transfer the certificate of title to the surviving spouse if:

- the surviving spouse is the decedent's only heir or legatee;
- the surviving spouse certifies to the agency that all debts and taxes owed by the decedent have been paid;
- the agency receives satisfactory evidence of the value of the boat or vessel, which may be provided by a statement signed by two individuals stating that (1) they have personal knowledge of the value of boats or vessels of the type that is in the estate, and (2) the value of the boat or vessel does not exceed \$5,000; and
- the agency receives a copy of the decedent's death certificate and suitable proof of the existence of the marriage.

Current Law:

Motor Vehicles

The Transportation Article authorizes the sole owner of a motor vehicle to apply to MVA to designate a beneficiary to take ownership of the motor vehicle on the death of the owner. The designation of a beneficiary may be shown by the words "transfer-on-death" or the abbreviation "TOD" after the name of the registered owner on a certificate of title.

The designation of a beneficiary for a motor vehicle does not affect the ownership of the motor vehicle until the death of the owner. The owner of a motor vehicle may cancel or change the designation of a beneficiary at any time without the consent of the beneficiary by applying to MVA. The designation of a beneficiary is not required to be supported by consideration, and the certificate of title of the motor vehicle does not have to be delivered to the beneficiary to make the designation effective. The designation of a beneficiary does not affect the rights of creditors of the motor vehicle under other Maryland law.

On the death of the owner of a motor vehicle who has designated a beneficiary, ownership of a motor vehicle must pass to the beneficiary if the beneficiary survives the owner. If a designated beneficiary does not survive the death of the owner, the motor vehicle is part of the estate of the deceased owner.

A designated beneficiary who survives the owner must apply to MVA for a new certificate of title for the motor vehicle. An application for a certificate of title by a beneficiary following the death of the owner must include (1) the original certificate of title designating the beneficiary; (2) a death certificate for the deceased owner; (3) proof of the identity of the beneficiary; and (4) any applicable taxes or fees.

Boats or Vessels

Any owner of a vessel principally used on the waters of the State and to be numbered must apply to the Department of Natural Resources (DNR) for a certificate of title. A person may not operate or give permission to operate any vessel on the waters of the State unless the vessel is numbered, as required by State law. If ownership of a vessel is transferred by operation of law, such as by inheritance, among other methods, the person who is the recipient of the vessel must mail or deliver to DNR satisfactory proof of ownership, along with an application for a new certificate of title and the required fee. The required documents and fee must be submitted to DNR within 30 days after the recipient has acquired the right to possession of the vessel.

Estate Administration

All property of a decedent is subject to the estates of decedents law, and upon the person's death must pass directly to a personal representative, who must hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.

The court may determine questions of title to personal property not exceeding \$50,000 in value for the purpose of determining what personal property is properly includable in an estate that is the subject of a proceeding before the court.

State Revenues: While the registers of wills remit any surplus fees to the Comptroller for deposit into the State general fund, the Comptroller advises that probate fees alone are not enough to cover the cost of salaries and operating expenditures for the registers of wills. Because no surplus is likely to be remitted to the State just from the collection of probate fees that are affected by the bill, the bill does not have an impact on State finances.

Local Revenues: Revenues for register of wills office decrease, likely significantly, due to the exemption of the specified small estates from probate fees. In fiscal 2017, the Register of Wills reports that 17,203 small estates valued less than \$50,000 were opened for probate. The fees collected from these small estates totaled \$908,553. The Comptroller advises that net probate fees collected by the registers of wills totaled \$6,671,475 in fiscal 2017.

Data is not readily available to determine what portion of the estimated 17,000 small estates subject to probate annually are estates that have only a surviving spouse as an heir or legatee and are comprised of only one or two vehicles or a vessel valued at \$5,000 or less. The Register of Wills office advises that the proportion of estates meeting the requirements of the bill may be as much as 65% or 70%. *For illustrative purposes only*, if, of the estimated 17,000 small estates probated annually, 10,000 of those estates meet the parameters established by the bill, and are no longer subject to a probate fee of \$50, local revenues for the registers of wills decrease by \$375,000 in fiscal 2019 and by \$500,000 annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Register of Wills; Maryland Department of Transportation; Comptroller of Maryland; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2018
nb/kdm Third Reader - March 19, 2018
Revised - Amendment(s) - March 19, 2018
Enrolled - May 11, 2018
Revised - Amendment(s) - May 11, 2018

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